

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

JOSEPH DEVERN WINTERS, #25288-001

PETITIONER

VS.

CIVIL ACTION NO. 5:09-cv-150(DCB)(MTP)

BRUCE PEARSON, Warden

RESPONDENT

ORDER ADOPTING REPORT AND RECOMMENDATION

This cause is before the Court on the Report and Recommendation of Magistrate Judge Michael T. Parker (**docket entry 13**), and on the petitioner Joseph Devern Winters ("Winters")'s objections thereto. Having carefully considered the report and recommendations of the magistrate judge and the petitioner's objections, and being fully advised in the premises, the Court finds as follows:

Winters is currently serving a federal sentence imposed by the United States District Court for the Northern District of Alabama on November 30, 2005, and is housed by the Bureau of Prisons ("BOP") at the Federal Correctional Complex in Yazoo City, Mississippi. The BOP has calculated the petitioner's federal sentence to effect concurrent service of his federal sentence with a state sentence imposed by the State of Alabama. In his petition, Winters claims that he should be given credit against his federal sentence for time spent in custody from his February 8, 2005, state arrest until his November 30, 2005 federal sentencing.

In his Report and Recommendation, Magistrate Judge Parker

finds that Winters received state jail credit against his state sentence for time served from February 8, 2005, as the petitioner concedes; therefore, he is not entitled to credit for that time against his federal sentence. See 18 U.S.C. § 3585(b). The petitioner's objections do not convince the Court otherwise. Accordingly,

IT IS HEREBY ORDERED that the Report and Recommendation of United States Magistrate Judge Michael T. Parker (**docket entry 13**) is hereby adopted as the finding of this Court, and the petitioner's objections thereto are denied;

FURTHER ORDERED that the 28 U.S.C. § 2241 petition is dismissed. A separate judgment will be entered in accordance with Rule 58 of the Federal Rules of Civil Procedure, dismissing this action with prejudice.

SO ORDERED, this the 18th day of October, 2010.

/s/ David Bramlette
UNITED STATES DISTRICT JUDGE